



Schedule

Contract GS07F0564X

Section N FSC Group 66, Part II, FSC Class 6630

MAY 2021
SUPERSEDES ALL PREVIOUS PUBLICATIONS





Agilent Technologies

**GENERAL SERVICES ADMINISTRATION
FEDERAL ACQUISITION SERVICE
AUTHORIZED FEDERAL SUPPLY SCHEDULE**

**FSC Group 66, Part II, Section N, Chemistry, Biochemistry, Clinical
Instruments, General Purpose Laboratory Instruments, Laboratory
Furnishings and Accessories and Related Services**

FSC Classes: 6640, H999

CONTRACT NUMBER: GS-07F-0564X

Contract Period: June 1, 2011 through May 31, 2021

SINS: 615-4, 615-9, 615-5000, 632-05, 632-06, 632-07, 632-10, 66-107
Ordering information, terms and conditions, and up-to-date pricing is
available at:

<http://www.agilent.com/gsa/>

AND



AGILENT TECHNOLOGIES, INC.

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TABLE OF CONTENTS

1.	DEFINITIONS	
1	1a. Table of Awarded Special Item Numbers (SIN)	
 1	
1b.	Lowest Priced Model	1
1C.	hourly rates	2 2.
	Maximum Order	2
3.	Minimum Order	
	2	
4.	Geographic Coverage (Delivery Area)	2
5.	Points of Production	
	2	
6.	Prices and Discounts	
	3	
7.	Quantity Discounts	
3	8. Payment Terms	
 3	
9.	Government Purchase Card Orders	3 10.
	Foreign Items	3 11a.
	Time of Delivery	3 11b.
	Expedited Delivery – CONTACT AGILENT	3
11c.	Overnight and 2-day delivery – Not applicable to this contract	3
11d.	Urgent Requirements – Not applicable to this contract	3
12.	F.O.B. Points	4
13A.	Ordering Address	4

13B. Ordering procedures	4
14. Payment Addresses.....	4
15. Warranty	4
16. Shipment, Packaging and Packing & Export Packing ChargeS	5
17. terms and conditions of government purchase card acceptance	5
18. Terms AND Conditions of Rental, Maintenance, and Repair	6
19. Terms AND Conditions of Installation	6
20. Terms & Conditions of Repair Parts - Not applicable to this contract	7
21. Services & Distribution Points - Not applicable to this contract	7
22. Participating Dealers - Not applicable to this contract	7
23. Preventive Maintenance	8
24A. Special Attributes Such As Environmental Attributes (e.g. recycled content, energy efficiency, and/or reduced pollutants) - Not applicable to this contract	8
24B. Section 508 Compliance for EIT - Not applicable to this contract	8
25. Data Universal Number System (DUNS).....	8
26. NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE	8
27. SALE AND DELIVERY	8
28. LICENSES	8
29. INTELLECTUAL PROPERTY CLAIMS	9
30. LIMITATION OF LIABILITY AND REMEDIES	9
31. GENERAL	9
32. ADDITIONAL INFORMATION	9

1. DEFINITIONS

This information pertains to Products and Support and the license of Software by Agilent Technologies, Inc. and its subsidiaries.

- a) "Applicable Trade Term" means the term defined in Incoterms 2000, agreed by the parties, and documented in the quotation.
- b) "Customer's Personal Data" means Customer's personal data or other personal data in Customer's control, including but not limited to names, telephone numbers and e-mail addresses.
- c) "Delivery" means the date when Agilent places the Product(s) at the Customer's or Customer's representative's disposal at the address agreed to by Agilent in accordance with the Applicable Trade Term.
- d) "Estimated Volume" is the combined monetary amount of eligible Products and related Support which Customer plans to order from each Exhibit during the term of this Agreement.
- e) "Exhibits" means attachments that describe or otherwise apply to the sale or license of Products or Support.
- f) "Product(s)" means any hardware sold or Software licensed under this Agreement that are determined by Agilent to be available from Agilent upon receipt of Customer's order. "Custom Products" means Products manufactured or configured to meet Customer requirements.
- g) "Software" means one or more computer programs in object code format, whether stand-alone or bundled with other Products, and related documentation provided to Customer under this Agreement.
- h) "Specifications" means specific technical information about Products which is published by Agilent in effect on the date Agilent ships Customer's order.
- i) "Support" means any standard service such as hardware maintenance, calibration and repair; Software updates and maintenance; or education and training. "Custom Support" means Support adapted to meet Customer requirements.

1A. TABLE OF AWARDED SPECIAL ITEM NUMBERS (SIN)

SIN	DESCRIPTION
66-107/RC	Electrophoresis, including Capillary Electrophoresis and Electrophoration Devices and Systems, Nucleic Acid and Amino Acid Sequencing Systems
615-4/RC	Gas Chromatograph (GC) and Chromatograph/Mass Spectrometer (GC-MS) Systems
615-9/RC	Liquid Chromatographer (LC) and Liquid Chromatographer/Mass Spectrometer (LC-MS) Systems
615-5000/RC	Product Support Options to Include Equipment Maintenance; Repair and Service; Calibration and Calibration Traceability Certificate; Extended Warranties; Technical Training; Technical Support and Application Development Support; and Equipment Leasing
632-5/RC	Infrared Spectrometers
632-6/RC	Ultraviolet, Visible, Infrared, and Near Infrared Spectrophotometers
632-7/RC	Fluorescence Spectrometers
632-10/RC	X-Ray Spectrometers; Diffractometers; Emission Spectrometers, Including Flame, Spark, Arc and Laser Types; and Mass Spectrometers

1B. LOWEST PRICED MODEL

Refer to product pages.

1C. HOURLY RATES

Refer to Agilent Service Terms E16S.

2. MAXIMUM ORDER

The maximum order threshold (M.O.) for this contract is \$400,000 for the total order. The M.O. for all special item numbers is \$400,000.

A delivery order that exceeds the Maximum Order may be placed under the contract in accordance with FAR 8.404. Sales for orders that exceed the Maximum Order are reported in accordance with GSAR 552.238-72.

3. MINIMUM ORDER

- a) Orders will not be accepted if the total net value is less than \$100 after subtracting the discount. Product orders must reference this Contract, be issued during the applicable Contract Period, and specify delivery within 180 days from order date.
- b) Customer will specify Ship to addresses within the geographic coverage and delivery area of this contract.
- c) Customer may cancel orders for products prior to shipment at no charge. Customer will pay all charges for returning products to Agilent Technologies shipping location if product orders are canceled after shipment.

4. GEOGRAPHIC COVERAGE (DELIVERY AREA)

The geographic coverage and delivery area of this contract is the 50 states, the District of Columbia, and Puerto Rico. For other overseas destinations Agilent Technologies will deliver to port of embarkation (FAR 52.247-34).

5. POINTS OF PRODUCTION**United States**

Little Falls, Newcastle County, Delaware
Loveland, Larimer County, Colorado
Santa Clara, Santa Clara County, California
Santa Rosa, Sonoma County, California
Lake Forest, Orange County, California

Foreign Countries

Melbourne, Victoria, Australia
Gent, Belgium – Rotselaar, Belgium

Plan-les-Ouates, Geneva, Switzerland
Hamburg, Hamburg, Germany – Boeblingen, Baden-Wurttemberg, Germany
Naerum, Denmark
South Queensferry, West Lothian, Scotland, UK
Cernusco sul Naviglio, Milan, Italy – Roma, Rome, Italy
Hachioji, Tokyo-To, Japan – Kobe, Hyogo-Ken, Japan
Suwon, Korea – Seoul, Korea – Taejeon, Korea – Taegu City, Korea
Amstelveen, Netherlands
Singapore, Singapore

6. PRICES AND DISCOUNTS

Price reductions for products listed in this catalog and any supplements will be applied immediately upon the effective date of the reductions.

All products included in contract GS-07F-0564X are listed on Agilent's GSA Product website:

<http://www.agilent.com/gsa> . Prices shown are net (discount deducted).

Prices in this contract are based solely on the terms and conditions of this contract.

Plug-ins and accessories combined with the instrument or system as a complete functional unit may be ordered as a single line item.

7. QUANTITY DISCOUNTS

Refer to product pages.

8. PAYMENT TERMS

a) Net 30 days in accordance with Prompt Payment Act (31 U.S.C. 3903). Payment is due thirty (30) days from Agilent's invoice date. Invoices for contractual Support will be issued in advance of the Support period. Agilent may change credit or payment terms at any time should Customer's financial condition or previous payment record so warrant.

b) Agilent may discontinue performance if Customer fails to pay any sum due, or fails to perform under this or any other Agilent agreement if, after ten (10) days written notice, the failure has not been cured.

9. GOVERNMENT PURCHASE CARD ORDERS

Government purchase cards are accepted above or below the micro-purchase threshold by phone for amounts up to the maximum limit of the purchase card, in accordance with the terms and conditions of this contract. Please refer to Section 17.

To place a purchase card phone order, please refer to Section 13A. Calls accepted from 8 a.m. to 8 p.m. EST.

10. FOREIGN ITEMS

The Trade Agreement Act applies to this contract. All foreign-manufactured items are eligible products from designated countries as defined in the Trade Agreements Act (GSAR 552.225-9). Foreign Points of Production are listed in Section 5.

11A. TIME OF DELIVERY

From date of receipt of order, most items in this contract shall be delivered within 90 days. For a few highly complex systems the delivery time may be up to 120 days. Agilent will make reasonable efforts to meet Customer's Delivery requirements. If Agilent is unable to meet Customer's Delivery requirements, alternative arrangements may be agreed. In the absence of such agreement, Customer's sole remedy is to cancel the order. Check with the Agilent's Government Business Center (identified in Item 13) for best delivery.

11B. EXPEDITED DELIVERY – CONTACT AGILENT**11C. OVERNIGHT AND 2-DAY DELIVERY – CONTACT AGILENT****11D. URGENT REQUIREMENTS – NOT APPLICABLE TO THIS CONTRACT****12. F.O.B. POINTS**

Prices shown are F.O.B. destination for the 50 states, the District of Columbia, and Puerto Rico. Prices for delivery to other overseas destinations are F.O.B. port of embarkation (FAR 52.247-34).

13A. ORDERING ADDRESS

Customers in the 50 states, the District of Columbia, and Puerto Rico should place orders with:

Agilent Technologies 2850
Centerville Rd.
Wilmington, Delaware 19808-1610

Toll-free phone number: 1-800-227-9770
Fax: (302) 633-8901

For Service: 1-800-424-9759

13B. ORDERING PROCEDURES

For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3

14. PAYMENT ADDRESSES

All payments should be sent to one of the following remittance addresses as shown on the invoice:
Agilent Technologies
4187 Collections Center Drive
Chicago, IL 60693

Overnight payments can be sent to: Bank
of America Lockbox Services Agilent
Technologies, Inc.
4187 Collections Center Drive
Chicago, IL 60693

CTX/CCD+ electronic payments may be paid to:

Bank of America, San Francisco, CA ABA
121 000 358
Beneficiary: Agilent Technologies, Inc.
Beneficiary Account Number: 12331-31561

15. WARRANTY

- a) Product warranty terms are provided with the Product, on quotations, upon request or at http://www.agilent.com/go/warranty_terms. Each Product receives a global warranty which includes the standard warranty for the country of purchase.
- b) Agilent warrants the Agilent hardware Product against defects in materials and workmanship and that the Product will conform to Specifications. Agilent warrants that Agilent owned standard Software substantially conforms to Specifications.
- c) If Agilent receives notice of a defect or non-conformance during the warranty period, Agilent will, at its option, repair or replace the affected Product. Customer will pay shipping expenses for return of such Product to Agilent. Agilent will pay expenses for shipment of the repaired or replacement Product.
- d) THE WARRANTIES IN THESE TERMS ARE EXCLUSIVE, AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. AGILENT SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

16. SHIPMENT, PACKAGING AND PACKING & EXPORT PACKING CHARGES

- a) Agilent will ship best way prepaid according to Agilent's standard commercial practice. Agilent will make reasonable efforts to meet Customer's Delivery and shipment requirements. If Agilent is unable to meet Customer's Delivery and shipment requirements, alternative arrangements may be agreed. In the absence of such agreement, Customer's sole remedy is to cancel the order.
- b) Title to hardware Products and risk of loss and damage will pass to Customer at the address agreed to by Agilent in accordance with the Applicable Trade Term.
- c) Return Shipment for Calibration services: Agilent will charge a fee for returning covered Products to Customer via standard shipping and handling methods. Other shipment methods requested by Customer may be available at an additional fee.
- d) Agilent products are packaged to conform to the commercial standards and practices of the industry. For agencies requiring special military or export military specifications, or coded packaging, contact

the nearest Agilent sales office in your area for the appropriate price. If special packing or shipping instructions are agreed, charges will be billed separately to Customer, and risk of loss and damage will pass to Customer on delivery to Customer's carrier.

- e) Export packing charges is not included, but available outside the scope of this contract.

17. TERMS AND CONDITIONS OF GOVERNMENT PURCHASE CARD ACCEPTANCE

Government purchase cards are accepted up to and above the micro-purchase level.

- a) Definitions.

"Government-wide commercial purchase card" means a uniquely numbered credit card issued by a contractor under GSA's Government-wide Contract for Fleet, Travel, and purchase Card Services to named individual Government employees or entities to pay for official Government purchases. "Oral order" means an order placed orally either in person or by telephone.

- b) The Contractor must accept the Government-wide commercial purchase card for payments equal to or less than the micro-purchase threshold (see Federal Acquisition Regulation 2.101) for oral or written orders under this contract.
- c) The Contractor and the ordering agency may agree to use the Government-wide commercial purchase card for dollar amounts over the micro-purchase threshold, and the Government encourages the Contractor to accept payment by the purchase card. The dollar value of a purchase card action must not exceed the ordering agency's established limit. If the Contractor will not accept payment by the purchase card for an order exceeding the micro-purchase threshold, the Contractor must so advise the ordering agency within 24 hours of receipt of the order.
- d) The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased supplies have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty item under other contract requirements, the Contractor must immediately credit a cardholder's account for items returned as defective or faulty.
- e) Payments made using the Government-wide commercial purchase card are not eligible for any negotiated prompt payment discount.

Credit Card Clearing House

For purposes of this contract, the clearinghouse identifies the nationally accepted credit card payment network being used by the Government commercial credit card contractor. (See Federal Supply Schedule IG 615, Government wide Commercial Credit Card Service.) The clearinghouse through which credit card payments will be processed is VISA.

18. TERMS AND CONDITIONS OF RENTAL, MAINTENANCE, AND REPAIR

Refer to Agilent Service Terms E16S.

19. TERMS AND CONDITIONS OF INSTALLATION**a) SITE PREPARATION**

When this service is included in the purchase price of a Product, a representative of Agilent will contact the

Customer upon receipt of Customer's purchase order to discuss site preparation requirements. This may be accomplished either during a n on-site visit or by telephone, and will encompass technical site planning, preparation and installation requirements relevant to Customer's system . Customer will also receive documentation or information characterizing t he physical, electrical and environmental requirements applicable to Customer's system, as well as any other requirements obtained in the appropriate Agilent "Site Preparation Manual" (when available) for the system.

b) SITE SURVEY

All installation sites must be approved by Agilent. Prior to the scheduled delivery of Customer's system, an

Agilent representative will verify that the site has been prepared in conformance with the applicable "Site Preparation Manual" (when available) and meets all electrical and environmental requirements contained in that manual. This verification may occur either on-site or by telephone.

c) PURCHASE OF INSTALLATION SERVICES

Standard installation services are included in the price of some system Products. These services may also be obtained from Agilent for Products or systems which do not include these services in the purchase price of the Product for additional cost which will be specially quoted.

d) INSTALLATION OF SYSTEMS AND SELECTED COMPONENTS

When installation is included in the purchase price of a Product:

- 1) Agilent will install Customer's system(s) at a mutually agreed time following notification b y Customer that all Products of the coordinated shipment have been delivered to the site and t hat the site conforms to Agilent's requirements. Installations will be performed during Agilent's normal business hours. Installations performed outside of business hours at Customer's request may be subject to additional charges.
- 2) Agilent systems, including all accessories, interfaces, peripherals and terminals ordered with a system on a coordinated delivery and included in Agilent's configuration guide and located at the system site, will be installed by Agilent at no additional charge.

e) SOFT WARE INSTALLATION

Standard Software installation services consist of loading the operating system and utilities included in the operating system Soft ware on t he system and executing applicable verification test s. Software that is Customer installable will be noted in the applicable data sheet.

f) INSTALLATION RESPONSIBILITIES During system installation, Agilent will perform the following tasks:

- 1) supervise uncrating, positioning and racking of the Products;
- 2) inventory the shipment against the packing list (s);
- 3) physically interconnect the Products;
- 4) check the primary power line voltage;

- 5) connect line power to Products shipped with power cable and connector; (i)
- 6) install operating system and utilities; execute turn-on procedures;
- 7) perform electronic and mechanical adjustments;
- 8) perform any repairs which may be required to make the Products operational; (ii)
9. execute standard Agilent diagnostic or verification programs and tests;
10. instruct operator on daily care and proper use of Products.

During system installation, Customer will perform the following tasks:

1. receive, uncrate, rack or move the Products and dispose of the packaging materials;
2. rerack or relocate the Products;
3. reconfigure or regenerate Software systems;
4. connect line power to Products delivered without power cable and connector; (i)
5. may install products not supplied by Agilent;
6. fabricate or pull cables;
7. ensure that site, cable runs and power outlets conform to all local fire and electrical codes;
8. attach wall and ceiling mounts to building structure;
9. reconfigure hardware systems, including recabling or relocation of existing products.

All of the above Customer tasks, except 4 and 8, may be performed by Agilent for an additional charge and are subject to availability of resources. NOTES:

- i) Due to variations in local electrical codes, many Products are shipped without power cables and connectors. These Products must be connected to power by Customer's electrical contractor who is familiar with local regulations.
- ii) Repairs made on Products covered by Agilent warranty will be accomplished at no additional charge. Shipment damage related to a Customer initiated relocation or shipment is not covered under warranty. For Products or damage not covered by Agilent warranty, repairs will be made at Customer's expense.
- ii) Repairs made on Products covered by Agilent warranty will be accomplished at no additional charge. Shipment damage related to a Customer initiated relocation or shipment is not covered under warranty. For Products or damage not covered by Agilent warranty, repairs will be made at Customer's expense.

20. TERMS & CONDITIONS OF REPAIR PARTS - NOT APPLICABLE TO THIS CONTRACT

21. SERVICES & DISTRIBUTION POINTS - NOT APPLICABLE TO THIS CONTRACT

22. PARTICIPATING DEALERS - NOT APPLICABLE TO THIS CONTRACT

23. PREVENTIVE MAINTENANCE

Refer to Agilent Service Terms E16S.

24A. SPECIAL ATTRIBUTES SUCH AS ENVIRONMENTAL ATTRIBUTES (E.G. RECYCLED CONTENT, ENERGY EFFICIENCY, AND/OR REDUCED POLLUTANTS) - NOT APPLICABLE TO THIS CONTRACT

24B. SECTION 508 COMPLIANCE FOR EIT - NOT APPLICABLE TO THIS CONTRACT

25. DATA UNIVERSAL NUMBER SYSTEM (DUNS)

Agilent's DUNS is 195823570.

26. NOTIFICATION REGARDING REGISTRATION IN SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE

Agilent has an Active Registration in the SAM database.

27. SALE AND DELIVERY

- a) All orders are subject to acceptance by Agilent. Orders are governed by the applicable trade term specified on the quotation or agreed to by Agilent as defined in Incoterms 2000.
- b) Prices exclude any applicable sales, value added or similar tax payable by Customer.
- c) Unless otherwise indicated on the quotation, prices include shipping and handling charges. Title to hardware and consumable Products will pass to Customer upon delivery.
- d) Customer may cancel orders prior to shipment at no charge. Product returns are subject to Agilent approval and applicable charges.
- e) For Products without installation included in the purchase price, acceptance occurs upon delivery. For Products with installation included in the purchase price, acceptance occurs when the Product passes Agilent's installation and test procedures. If Customer schedules or delays installation by Agilent more than thirty (30) days after delivery, acceptance of the Product will occur on the thirtyfirst (31st) day after delivery.
- f) Payment terms are stated in the quotation or acknowledgment documentation, and are subject to change if Customer's financial condition or payment record merits such change. Agilent may discontinue performance if Customer fails to pay any sum due, or fails to perform under this or any other Agilent agreement if, after ten (10) days written notice, the failure has not been cured.

28. LICENSES

- a) Agilent grants Customer a worldwide, non-exclusive, license to use Software for internal purposes in accordance with documentation provided with the Software. Agilent license terms or third party license terms included with such documentation will take precedence over these license terms. If the documentation does not include license terms, Agilent grants Customer a license to use one copy of the Software on one machine or instrument, or a license as otherwise stated on the quotation.
- b) Except as authorized by Agilent in writing or as permitted by law, Customer will not reverse engineer, reverse compile, or reverse assemble Software, modify or translate Software, or copy Software onto any public or distributed network.

29. INTELLECTUAL PROPERTY CLAIMS

- a) Agilent will defend or settle any claim against Customer that a Product infringes an intellectual property right, provided Customer promptly notifies Agilent in writing and provides control of the defense or settlement, and assistance, to Agilent.
- b) In defending or settling an infringement claim under Section 29(a), Agilent will pay infringement claim defense costs, settlement amounts and court-awarded damages. If such a claim appears likely, Agilent may, at its option, modify or replace the Product or procure any necessary license. If Agilent determines that none of these alternatives is reasonably available, Agilent will refund Customer's purchase price upon return of the Product.

- c) Agilent has no obligation for any claim of infringement arising from: Agilent's compliance with, or use of, Customer's designs, specifications, instructions or technical information; Product modifications by Customer or a third party; Product use prohibited by or outside the scope of Specifications or related application notes; or use of the Product with products not supplied by Agilent.

30. LIMITATION OF LIABILITY AND REMEDIES

- a) In no event will Agilent, its subcontractors or suppliers be liable for special, incidental, indirect or consequential damages (including downtime costs, loss of data, restoration costs, or lost profits) regardless of whether such claims are based on contract, tort, warranty or any other legal theory, even if advised of the possibility of such damages. This exclusion is independent of any remedy set forth in these Terms.
- b) The limitations set forth in Section 30(a) above will not apply to infringement claims under Section 29, or to damages for bodily injury or death.
- c) The remedies in these Terms are Customer's sole and exclusive remedies.

31. GENERAL

- a) Use, distribution or disclosure of Products by the U.S Government is subject to DFARS 227.7202-3 (Rights in Commercial Computer Software), DFARS 252.227-7015 (Technical Data – Commercial Items), and FAR 52.227-19 (Commercial Computer Software- Restricted Rights).
- b) Products are not specifically designed, manufactured or intended for sale as parts, components or assemblies for the planning, construction, maintenance or direct operation of a nuclear facility. Agilent shall not be liable for any damages resulting from such use.

32. ADDITIONAL INFORMATION

A. Use of Federal Supply Schedules Government Contractors

Government contractors and subcontractors may use GSA supply sources when authorized in writing by the responsible contracting officer. A copy of the contracting officer's written authorization must be forwarded with the order, and the following statement must be included with or on the order: "This order is placed under written authorization from (insert name of Government agency), dated _(date)_____, In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern."

B. Exclusions

Source Inspection or preparation and submission of form DD250 are not included under this schedule contract.

C. Inspection

The inspection system required by FAR Clause 52.212-4(a) is incorporated into this contract. Contract Terms and Conditions -- Commercial Items (June 2010)

(a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights –

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

D. Safety Hazard Notice

Agilent reserves the right to terminate or refuse service when in Agilent's opinion, conditions at the equipment location represent a hazard to the safety or health of any Agilent employee. Prior to terminating service Agilent shall notify the GSA Contracting Officer and the Agency's Contracting Officer of Agilent's intention to terminate service.

E. Quality Control

The Agilent quality control system conforms to Government specifications for commercial products.

F. Scope of Contract

This contract provides a source of supply for: 1) All Federal Agencies and activities in the executive, legislative, and judicial branches. 2) Government contractors authorized in writing by a Federal Agency pursuant to 48 CFR 51.1. 3) Mixed ownership Government Corporations (as defined in the Government Corporation Control Act). 4) The Government of the District of Columbia. 5) Other activities and organizations authorized by statute or regulation to use GSA as a source of supply. (Question regarding activities authorized to use this schedule should be directed to the contracting officer)

This GSA schedule contract is available to agencies of the United States Federal Government only. It shall constitute the entire agreement between Agilent and those ordering under the contract. It is not available to commercial customers, or to other government agencies (state, local, or foreign) or private institutions, except as authorized by GSA and approved by Agilent. By issuing a delivery order against the contract, the government or authorized user accepts the terms and conditions contained in this contract.

G. Ordering Options and Modifications

Most options must be installed in the factory at the time the product is ordered. If an option can be installed later (field installation) this will be stated in the Agilent General Catalog or product data sheets. To avoid administrative delays in receiving/inspection and invoice processing, orders should clearly indicate that options are an integral part of the basic product (not separate items shipped in their own container). Do not

list options as a separate line item. Questions on this subject should be directed to the Agilent sales office identified in Section 13A.

Purchasing of incidental, non-schedule items on a delivery order is permitted so long as the cost of the non-schedule items is small compared to the total cost of the procurement.

H. Blanket Purchase Agreements

Agilent agrees to enter into blanket purchase agreements to accordance with FAR 13.2 with ordering activities, provided that:

- 1) Only items covered by the contract are ordered under such agreements:
- 2) the period of time covered by such agreements shall not exceed the period of the contract; and
- 3) orders placed under such agreements shall be issued in accordance with all applicable regulations and the terms and conditions of the contract.



AGILENT SERVICE TERMS

These Agilent Service Terms ("Terms") along with the applicable description of Service ("Service Exhibit") and the terms indicated on the quotation govern the Service of Products and the license of software updates by Agilent Technologies, Inc. and its subsidiaries ("Agilent"). In the event of a conflict herewith, the Service Exhibit will prevail. "Product" means Agilent or third party hardware or consumable that is supported by Agilent as described, if applicable, in any Service Exhibits.

"Service" means any standard service to support Products."

1. PARTIES RESPONSIBILITIES

- a) Agilent will perform Service in a professional and workmanlike manner. Agilent will make reasonable efforts to deliver Service in accordance with the quotation or the applicable Service Exhibit and may select qualified and reputable subcontractors to perform Service.
- b) Product must be at current specified revision levels and may require Agilent's certification, at Customer's expense, that Product is in good operating condition.
- c) Product relocation may result in additional Service charges, modified service response times and if moved subject to availability.
- d) Customer must remove products not eligible for Service to enable Agilent to perform Service and may incur additional charges for any extra work caused.
- e) Service does not cover damage, defects or failures caused by: use of non-Agilent media, supplies and other products; site conditions that do not conform to Agilent's specifications; neglect, improper use, fire or water damage, electrical disturbances, transportation, work, or modification by non-Agilent employees or subcontractors, or causes beyond Agilent's control.
- f) Customer is responsible for maintaining a procedure external to the Product to reconstruct lost or altered Customer files, data or programs, and for having a representative present when Agilent provides Service at Customer's site. Customer will notify Agilent if Product is being used in an environment that poses a potential health hazard. Agilent may require Customer to maintain such Product under Agilent supervision.

2. ORDERS AND CANCELLATIONS

- a) All orders are subject to acceptance by Agilent.
- b) Unless stated otherwise in the Service Exhibit, cancellation is subject to Agilent's prior consent and any applicable fees, details of which are available on request.
- c) Upon sixty (60) days written notice, Agilent may delete Product no longer included in Agilent's Service offering or may cancel a Service Exhibit.

3. SHIPMENT, RISK OF LOSS AND ACCEPTANCE

- a) Customer will pay all expenses for return of Product to the Agilent service center. Agilent will pay expenses for return of Product to Customer via Agilent's standard shipping methods.

- b) Risk of loss and damage for tangible deliverables will pass to Customer at the location specified in the quotation or order acknowledgment.
- c) Acceptance of Service will occur upon performance.

4. PRICE AND PAYMENT

- a) Prices exclude any applicable sales, value added or similar tax payable by Customer.
- b) Payment terms are per the quotation or order acknowledgement and are subject to change if Customer's financial condition or payment records so warrants. Agilent may stop performance if Customer fails to pay any sum due, or fails to perform under this or any other Agilent agreement if, after ten (10) days written notice, the failure has not been cured.

5. WARRANTY

- a) Agilent will replace, at no charge, defective parts used in Agilent's repair of Product for ninety (90) days from the date of Service.
- b) Agilent warrants that software updates will not fail to execute programming instructions due to defects in materials and workmanship when properly installed and used on hardware designated by Agilent. Agilent warrants that Agilent owned standard software updates substantially conform to specifications. Agilent does not warrant that software updates will operate in hardware and software combinations selected by Customer, or meet requirements specified by Customer. Agilent does not warrant that software updates will be uninterrupted or error free.
- c) Agilent Service may use remanufactured parts that are equivalent to new in performance.
- d) The above warranties do not cover defects resulting from improper or inadequate maintenance, installation, repair or calibration performed by Customer or an unauthorized third party; Customer or third party supplied hardware or software, interfacing or supplies; unauthorized modification; improper use or operation outside of the specifications for the Product; abuse, negligence, accident, loss or damage in transit; or improper site preparation.

- e) THE WARRANTIES IN THESE TERMS ARE

EXCLUSIVE AND NO OTHER WARRANTY,

WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. AGILENT SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

6. LICENSES

Unless license terms are included with the software a) Agilent will defend or settle any claim against Customer updates, software updates licensed under these Terms that any deliverable provided under these Terms will be subject to the most current applicable underlying infringes an intellectual property right provided license.

Customer promptly notifies Agilent in writing and

7. INTELLECTUAL PROPERTY CLAIMS

E16S

Page 1 / 2

Revision Date 15-January-2014 Version Number 8

TERMS AND CONDITIONS

APPLICABLE TO MAINTENANCE (SIN 615-5000)



Agilent Technologies

AGILENT SERVICE TERMS provides control of the defense or settlement, and assistance to Agilent.

- b) In defending or settling an infringement claim under Section 7(a), Agilent will pay infringement claim defense costs, settlement amounts and courtawarded damages. If such a claim appears likely, Agilent may, at its option, modify or replace the affected deliverable, or procure any necessary license. If Agilent determines that none of these alternatives is reasonably available, Agilent will refund Customer's purchase price.
- c) Agilent has no obligation for any claim of infringement arising from: Agilent's compliance with, or use of, Customer's designs, specifications, instructions or technical information; modifications by Customer or a third party; software update use outside the scope of Agilent specifications or related application notes; or use of the deliverable with products not supplied by Agilent.

8. LIMITATION OF LIABILITY AND REMEDIES

- a) In no event will Agilent, its subcontractors or suppliers be liable for special, incidental, indirect or consequential damages (including downtime costs, loss of data, restoration costs, or lost profits) regardless of whether such claims are based on contract, tort, warranty or any other legal theory, even if advised of the possibility of such damages. This exclusion is independent of any remedy set forth in these Terms.
- b) The limitations set forth in Section 8 (a) above will not apply to infringement claims under Section 7 above, or to damages for bodily injury or death.
- c) The remedies in these Terms are Customer's sole and exclusive remedies.

9. TERM AND TERMINATION

- a) An order or a Service agreement may be terminated immediately upon notice in writing (a) by either party, for cause, unless the other party cures the breach within thirty (30) days of written notice of such breach or (b) by Agilent if Customer fails to pay any sums due as specified in Section 4(b) above.
- b) Any order or Service agreement will terminate automatically if either party is subject to a voluntary or involuntary bankruptcy petition, becomes insolvent, is unable to pay its debts as they become due, ceases to do business as a going concern, makes an offer or assignment or compromise for the benefit of creditors, or there is a substantial cessation of its regular course of business, or a receiver or trustee is appointed for such party's assets.
- c) Upon termination in accordance with 9a) or b) Customer will pay Agilent for all Service performed and charges and expenses incurred by Agilent up to the date of

termination. If the sum of such amounts is less than any advance payment received by Agilent, Agilent will refund the difference within thirty (30) days of receipt of an invoice from Customer. Customer will receive all work in progress for which Customer has paid.

- d) Provisions herein which by their nature extend beyond the termination of any Service will remain in effect until fulfilled.

10. GENERAL

- a) Customer may not assign or transfer a Service agreement without Agilent's prior written consent, which may be subject to applicable charges and terms. Agilent may assign or transfer any of its rights or obligations under these Terms and applicable Service Exhibits upon notice.
- b) Agilent will store and use Customer's personal data in accordance with Agilent's Privacy Statement available at – www.agilent.com/go/privacy. Agilent will not sell, rent or lease Customer's personal data to others.
- c) The parties agree to comply with applicable laws and regulations. Agilent may suspend performance if Customer is in violation of applicable laws or regulations.
- d) Customer who exports, re-exports, or transfers products, technology or technical data purchased hereunder assumes all responsibility for complying with applicable U.S. and all other laws and regulations ("Applicable Laws"), and for obtaining required export authorizations. Customer expressly agrees not to sell or otherwise transfer products, technology or technical data to companies or persons on the Denied Parties List and Specially Designated Nationals and Blocked Persons List, or to any other prohibited parties or restricted destinations listed in Applicable Laws, unless properly authorized by the appropriate government(s). Agilent may suspend performance if Customer is in violation of Applicable Laws. Further information on restricted destinations can be obtained from - <http://www.bis.doc.gov>.
- e) Use, distribution or disclosure of Products by the U.S Government is subject to DFARS 227.7202-3 (Rights in Commercial Computer Software), DFARS 252.2277015 (Technical Data – Commercial Items), and FAR 52.227-19 (Commercial Computer Software- Restricted Rights).
- f) Disputes arising in connection with these Terms will be governed by the laws of the State of California.
- g) To the extent that any provision or a portion of any provision of these Terms is determined to be illegal or unenforceable, the remainder of these Terms will remain in full force and effect.

h) These Terms and any Service Exhibits attached hereto constitute the entire agreement between Agilent and

transactions hereunder. Customer's additional or different terms and conditions will not apply.

Customer, and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding

E16S

Page 2 / 2

Revision Date 15-January-2014

Version Number 8



PROJECT PROFESSIONAL SERVICES AGREEMENT

Exhibit TM13

**PROJECT
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
AGILENT TECHNOLOGIES INC.
AND**



PROJECT PROFESSIONAL SERVICES AGREEMENT

Exhibit TM13

Table Of Contents

Sections of the Agreement

1. Definitions
2. Contractor Obligations
3. Agilent Obligations
4. Price and Payment
5. Change Orders
6. Acceptance
7. Intellectual Property Rights
8. Indemnity and Insurance
9. Confidential Information
10. Remedies and Liabilities
11. Term and Termination
12. General

Exhibits to the Agreement

A Description of Work

This Project Professional Services Agreement ("Agreement") is made between AGILENT TECHNOLOGIES INC., a Delaware corporation ("Agilent") and _____, ("Contractor"), as of _____ ("Effective Date").

The purpose of this Agreement is to set forth the mutually agreeable terms and conditions under which Contractor will provide Professional Services and Deliverables to Agilent, in connection with the _____ project for _____ ("Customer"), according to the Description of Work attached as Exhibit A.

1. DEFINITIONS

- a) **"Professional Services"** (sometimes referred to as **"Work"**) refers to such activities as analysis, design, planning, development, implementation, education, training and project management as described in the Description of Work. Professional Services may also include other types of services described more specifically in the Description of Work.
- b) **"Deliverables"** means the tangible results of the Professional Services provided to Agilent by Contractor as described in the Description of Work. Unless otherwise agreed, the term Deliverables does not include custom hardware.
- c) **"Software"** means one or more programs (including any associated documentation) capable of operating on a controller, processor or other hardware device .

**PROJECT PROFESSIONAL SERVICES AGREEMENT****Exhibit TM13**

- d) **"Description of Work"** (sometimes referred to as **"Exhibit A"**) means a document attached to this Agreement which describes the specific project, engagement or assignment (**"Project"**) for which Contractor will provide Professional Services to Agilent.

2. CONTRACTOR OBLIGATIONS

- a) Contractor will perform the Professional Services and provide the Deliverables specifically described in the Description of Work (Exhibit A) in accordance with the terms and conditions of this Agreement.
- b) The Work will be completed within any time period(s) specified in Exhibit A. Time will be of the essence in this Agreement unless agreed otherwise in writing. The Contractor will deliver any milestones or stages of Work on the dates specified the Description of Work and will comply with any inspection requirements notified by Agilent. If any stage is delayed for any reason the Contractor will use its best efforts to recover lost time.
- c) Unless otherwise agreed, Professional Services will be performed during Agilent's normal business hours. Completed timesheets will be submitted by Contractor to Agilent at the end of each week for approval.
- d) Agilent may refuse entry to Agilent's premises for security or other reasons to any person in its absolute discretion without giving reasons.
- e) Contractor (including where appropriate its servants or agents or employees), when present on the premises of Agilent or Agilent's customer, will comply with all rules, regulations and requirements (including those relating to security arrangements) in force for the conduct of personnel on those premises.
- f) Contractor (including where appropriate its servants, agents or employees) will not, without Agilent's prior permission, enter any part of Agilent or Customer premises other than as strictly necessary in connection with the performance of the work.
- g) If in the opinion of Agilent, Contractor (or any Contractor employee, servant or agent) misconducts itself or becomes incapable of efficiently performing its duties, Contractor (or its employee, servant or agent) will leave Agilent's or Agilent's customer's premises immediately upon request and this Agreement will automatically terminate. In such an event, Agilent may employ such other person(s) as it may deem necessary for the purposes of carrying out the Work and recover from Contractor any additional costs incurred.
- h) The decision of Agilent upon any matters arising under this Section 2 will be final and conclusive.

3. AGILENT OBLIGATIONS

- a) Work may only be initiated by a purchase order issued by Agilent and acknowledged by Contractor. The terms and conditions of this Agreement will be substituted in their entirety for any other terms and conditions including any specified on the purchase order or the acknowledgement.
- b) Agilent will provide Contractor with access to, and use of, all information, data, documentation, computer time, facilities, working space and office services deemed necessary by Agilent to perform the Work.
- c) Agilent will provide professional and prompt liaison with Contractor and will meet with the Contractor at regular intervals to be agreed upon to review progress and resolve any issues relating to the Professional Services or Deliverables.
- d) Agilent may loan Contractor property for use in performing services, and such loan may be documented in a separate equipment loan agreement. Unless otherwise provided in such agreement, the property will be returned upon the completion of services or earlier at Agilent's request.

4. PRICE AND PAYMENT

- a) The prices for the Professional Services and/or Deliverables are specified in the Description of Work (Exhibit A). No payment will be due to Contractor for additional or different services or deliverables rendered other than those described herein unless Contractor obtains an approved Change Order pursuant to Section 5 below for such services or deliverables and any associated fees. Contractor is not authorized to incur any expenses on behalf of Agilent without prior written approval.
- b) Contractor will issue invoices in accordance with the payment schedule specified in Exhibit A. Agilent will pay all invoices within 37 days from the date of the invoice.
- c) All charges to Agilent under this Agreement are inclusive of all applicable taxes, duties and similar levies. Such incorporated taxes include, but are not limited to, federal, state and local privilege, gross receipts, sales, use and excise taxes.

**PROJECT PROFESSIONAL SERVICES AGREEMENT****Exhibit TM13****5. CHANGE ORDERS**

- a) Contractor will, as soon as possible following receipt of a written change request from Agilent or the making of a written change recommendation by Contractor, give Agilent in writing a firm (non-revisable) price quotation for the proposed change, valid for a period of sixty (60) days, or such other period as may be agreed by the parties in writing, together with any impact it would have on the Schedule of Work and other contract matters, including any required change to Agilent's obligations, should the change be implemented.
- b) If Agilent wishes to proceed with the change, Agilent will instruct Contractor in writing to that effect. Until such time as any change is agreed in writing, or in the event Agilent notifies Contractor that it does not wish to proceed with the change, Contractor will continue to perform and to be paid as if such change had not been requested or recommended.

6. ACCEPTANCE

The Work will be presented for acceptance by the date specified in Exhibit A. Agilent may carry out acceptance tests to determine whether the Work meets any criteria detailed in the Description of Work. If the Work is not accepted, Agilent will have the following options:

- a) Reject the Work.
- b) Accept the Work at a reduced price.
- c) Require the Contractor to remedy any defect(s) and re-present the Work for acceptance, in which case the Contractor will carry out all necessary remedial work at Contractor's sole expense and re-submit for acceptance within an agreed times.

7. INTELLECTUAL PROPERTY RIGHTS

- a) Contractor agrees that the copyright and all other intellectual property rights in the Work, including information embodied in the Work or rendered to Agilent in any intangible form and any models, tooling and other devices, documents, drawings and other records and anything else created for making any items will belong to and vest absolutely in Agilent, and Agilent will have worldwide, exclusive and unrestricted rights in respect thereof. No ownership of copyright or any other will pass to or be acquired by Contractor by virtue of this Agreement.
- b) Contractor warrants that it has the right to disclose to Agilent all information, including ideas, processes, designs and methods used in the Work without liability to others.
- c) When any intellectual property to which the rights are owned by a third party are to be disclosed to Agilent by Contractor in connection with the Work, Contractor warrants that it has the necessary permission to enable it to disclose such intellectual property to Agilent without infringing said third party's rights, and agrees to indemnify and hold Agilent harmless from all liabilities in connection therewith.
- d) Contractor hereby grants Agilent and its associated and subsidiary companies a non-exclusive, irrevocable, worldwide, royalty free license with the right to sub-license any pre-existing intellectual property rights which are disclosed to Agilent or used in the performance of this Agreement to make, have made, sell, use or disclose such subject matter. Contractor warrants it has the full capacity to grant such licenses.
- e) Contractor will promptly notify Agilent in writing of any inventions made or conceived in connection with the work and without further consideration assign all rights, title and interest in such inventions to Agilent, and Contractor will assist Agilent and its nominees in every proper way at Agilent's expense to obtain, maintain and defend intellectual property protection for those inventions in any country or countries at Agilent's election.
- f) Contractor hereby assigns to Agilent all transferable copyrights in any copyrightable materials in connection with this Agreement. Agilent may, but need not, mention any author. Agilent will be entitled to make any modifications of such works as Agilent in its sole discretion thinks fit.

8. INDEMNITIES AND INSURANCE

- a) Contractor will defend, indemnify and hold harmless Agilent from all claims, losses, liabilities, damages, costs and expenses (including attorney and expert witness fees) suffered by reason of any third party claim to ownership of or any interest in the Work or any Deliverable, or any portion thereof, including any claim made or any suit or proceeding brought against Agilent insofar as it is based on an allegation that any portion of the Work or Deliverable infringes or violates any patent, copyright, trademark, trade secret, utility model, industrial design, mask work, moral right or other intellectual property right. If use of the Work or Deliverable, or any part thereof, is enjoined, Contractor will, at its sole expense and option: (i) procure for Agilent the right to continue using the Work or Deliverable; (ii) replace the Work or Deliverable with a non-infringing version of equivalent function and performance; or (iii) modify the Work or Deliverable to be non-infringing without detracting from function or performance.

**PROJECT PROFESSIONAL SERVICES AGREEMENT****Exhibit TM13**

- b) Contractor agrees to defend, indemnify and hold harmless Agilent, its agents and employees, against all claims, losses, liabilities and damages, and to pay all claims, judgments, awards, costs and expenses (including attorney and expert witness fees) arising out of or in connection with Contractor's acts or omissions under this Agreement, unless such claim is due solely to Agilent's negligence.
- c) Contractor will ensure that liabilities of Contractor incurred during the provision of the Work are adequately covered by insurance in particular regarding employer's liability, worker's compensation, motor vehicle (including use in connection with the provision of the Work), general liability and professional liability.

9. CONFIDENTIAL INFORMATION

- a) During the term of this Agreement, either party may receive or have access to technical information, as well as information about product plans and strategies, promotions, customers and related non-technical business information which the disclosing party considers to be confidential ("Confidential Information"). Before Confidential Information is disclosed, the parties will first agree to disclose and receive such information in confidence. If then disclosed, Confidential Information will be marked as confidential at the time of disclosure, or if disclosed orally but stated to be confidential, will be designated as confidential in a writing by the disclosing party summarizing the Confidential Information disclosed and sent to the receiving party within 30 days after such oral disclosure.
- b) Confidential Information may be used by the receiving party only with respect to the performance of its obligations under this Agreement, and only by those employees of the receiving party and, if Agilent, its subcontractors who have a need to know such information for purposes related to this Agreement, provided that such subcontractors have signed separate agreements containing substantially similar confidentiality provisions. The receiving party will protect the Confidential Information of the disclosing party by using the same degree of care (but not less than a reasonable degree of care) to prevent the unauthorized use, dissemination or publication of such Confidential Information, as the receiving party uses to protect its own confidential information of like nature. The receiving party's obligation under this Section 9 will be for a period of three years after the date of disclosure.
- c) The obligations stated in this Section 9 will not apply to any information which is:
 - 1) Already known by the receiving party prior to disclosure.
 - 2) Publicly available through no fault of the receiving party.
 - 3) Rightfully received from a third party without a duty of confidentiality.
 - 4) Disclosed by the disclosing party to a third party without a duty of confidentiality on such third party.
 - 5) Independently developed by the receiving party prior to or independent of the disclosure.
 - 6) Disclosed under requirement of law.
 - 7) Disclosed by the receiving party with the disclosing party's prior written approval.
- d) In the event that Contractor receives information from or belonging to Customer, Contractor agrees to execute such confidentiality agreement as Customer may require prior to receiving any such information.

10. REMEDIES AND LIABILITIES

EXCEPT FOR CONTRACTOR'S OBLIGATIONS REGARDING INTELLECTUAL PROPERTY RIGHTS, INDEMNITIES, INSURANCE AND CONFIDENTIAL INFORMATION AS DETAILED ABOVE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES ARISING FROM ANY CLAIM OR ACTION HEREUNDER, WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY. IN NO EVENT SHALL AGILENT BE LIABLE TO CONTRACTOR FOR DAMAGES FOR ANY CAUSE WHATSOEVER IN AN AMOUNT IN EXCESS OF THE AMOUNTS PAID TO CONTRACTOR UNDER THIS AGREEMENT.

11. TERM AND TERMINATION

- a) This Agreement will come into force on the Effective Date and will continue in force until the Work has been accepted by Agilent unless earlier terminated in accordance with the provisions below.
- b) This Agreement may be terminated by either party at any time by notice in writing if:
 - 1) the other party is in breach in any of its obligations hereunder and such breach remains unremedied after 10 (ten) days notice thereof; or
 - 2) the other party ceases business, is taken over in whole or in part or becomes insolvent; or

**PROJECT PROFESSIONAL SERVICES AGREEMENT****Exhibit TM13**

- 3) an event of force majeure as specified in Section 12.c. below continues for more than 30 days; or
- c) This Agreement may be terminated by Agilent for convenience on giving at least 30 days prior written notice.
 - d) In the event that Agilent's master agreement with its customer is terminated, Agilent may terminate this Agreement immediately upon notice in writing. Upon such termination, Agilent will make any payments then owed Contractor pursuant to Section 11.e. below, unless the customer's termination is due to acts or omissions of Contractor such as would constitute a breach of this Agreement.
 - e) In the event of termination of this Agreement Agilent will pay Contractor for all Work completed up until the date of termination and Contractor will immediately deliver to Agilent all Work completed as of the date of termination. Agilent will own all intellectual property rights in such Work, and Contractor will return all Agilent Confidential Information in its possession to Agilent or furnish evidence of its destruction.
 - f) In the event that Agilent terminates this Agreement, except pursuant to Section 11.c. above, Agilent will have the right to engage a third party to complete the Work and to recover any additional costs incurred thereby from Contractor. Contractor will provide such assistance including know-how as is necessary in order to enable Agilent to achieve completion of the Work in accordance with the provisions of this Section 11.
 - g) Sections 4, 7, 8, 9 and 10, above, and Section 12 below, will survive termination of this Agreement.

12. GENERAL

- a) **Independent Contractors.** Contractor and Agilent are independent contractors. Nothing contained in this Agreement will be construed as creating a joint venture, partnership, or employment relationship between the parties hereto, nor will either party have the right, power of authority to create any obligation or duty, express or implied, on behalf of the other. Agilent will not be responsible for the payment or deduction of any amount whatsoever required by law to be made by an employer in relation to its employees. Neither Contractor nor its employees, servants or agents will be covered by any Agilent employee benefit plans or insurance policies.
- b) **Subcontractors.** Contractor will have no right to appoint any subcontractor(s) to undertake any part of the Work hereunder unless such appointment has the prior written approval of Agilent. Contractor will be liable for and will indemnify and hold harmless Agilent for any claim arising from any act, omission or negligence on the part of any such subcontractor(s).
- c) **Force Majeure.** Neither party will be liable for any delay hereunder arising from circumstances beyond its reasonable control. In the event of such delay continuing or being expected to continue for more than 30 days, Agilent may terminate this Agreement by written notice, in which event Agilent will be obligated to pay Contractor only for Work completed as at date of such termination.
- d) **Health and Safety.** Contractor will conduct its activities so that its equipment, working conditions and methods are safe and without risk to health for its own, Agilent's and Customer's employees as well as for any other users of the location in which Contractor is conducting its activities.
- e) **Non-Restrictive Relationship.** Nothing in this Agreement will be construed so as to preclude Agilent from developing, acquiring, marketing or providing products or services which may perform the same or similar functions as the Work and Deliverables.
- f) **No Publicity.** Contractor agrees not to publicize or disclose to any third party without prior written consent of Agilent, either the terms of this Agreement or the fact of its existence and execution, or the participation of Customer, except as may be necessary to comply with other obligations stated in this Agreement.
- g) **Export Administration Regulations.** Each party agrees to comply with all applicable laws and regulations which may govern the export of Contractor Deliverables.
- h) **Non-Solicitation.** During the term of this Agreement, neither party will directly solicit the other party's personnel associated with the Work for employment.
- i) **Notices.** All notices required under or regarding this Agreement will be in writing and will be considered given upon personal delivery of a written notice to the contacts designated below, or within five days of mailing, postage prepaid and addressed as follows:

FOR Contractor:

FOR Agilent:



PROJECT PROFESSIONAL SERVICES AGREEMENT

Exhibit TM13

ATTN:	_____	ATTN:	_____
Phone:	_____	Phone:	_____
Fax:	_____	Fax:	_____
Address:	_____	Address:	_____
	_____		_____
	_____		_____

- j) **Waiver.** Neither party's failure to exercise any of its rights under this Agreement will constitute or be deemed to constitute a waiver or forfeiture of such rights. Waiver of a breach of this Agreement will not be deemed a waiver of any future breach. Any waiver must be in writing and signed by each party's representative.
- k) **Severability.** If any term or provision of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement will not be affected.
- l) **Exhibits.** The following document is attached hereto as an exhibit, the terms of which are incorporated by reference in its entirety:
Exhibit A: Description of Work.
- m) **Precedence.** In the event of conflict between the provisions of this Agreement and any attached Exhibit, the provisions of this Agreement will to the extent of such conflict take precedence.
- n) **Entire Agreement.** This Agreement and its exhibits constitute the entire agreement between Agilent and Contractor and supersede all prior or contemporaneous communications, representations, and agreements, whether oral or written, regarding the subject matter of this Agreement. Contractor's additional or different terms and conditions will not apply. No modifications of, or amendments to, the terms of this Agreement will be valid unless in writing and signed by an authorized representative of each party.



PROJECT PROFESSIONAL SERVICES AGREEMENT

Exhibit TM13

- o) **Applicable Law.** This Agreement is made under and will be construed in accordance with the laws of the State of California, without giving effect to that State's choice of law rules.

AGREED TO:

Contractor: _____

AGREED TO:

Agilent: _____

Authorized Representative Signature

Name: _____

Title: _____

Address: _____

Authorized Representative Signature

Name: _____

Title: _____

Address: _____



PROJECT PROFESSIONAL SERVICES AGREEMENT

Exhibit TM13

EXHIBIT A DESCRIPTION OF WORK

Description:

Schedule:

Price:

Payment:

**LSG NUCLEIC ACID PRODUCT SUPPLEMENTAL TERMS****Exhibit E380**

The following provisions will apply to the sale of all Agilent products containing nucleic acids or capable of analyzing nucleic acids ("Covered Products") and will supersede any conflicting provisions in Agilent Terms of Sale or Customer's Purchase Agreement with respect to the said products.

1. INTELLECTUAL PROPERTY CLAIMS FOR COVERED PRODUCTS

In addition to the provisions set forth in the Agilent Terms of Sale or Customer Purchase Agreement, Agilent has no obligation for any claim of infringement, including those arising from:

- (1) Any discovery or product made as a result of using the Covered Products;
- (2) Claim(s) based upon Gene Patents.
- (3) Customer's continued use of the Covered Product after notification of a claim of infringement, without Agilent's written authorization to do so.

For the purposes of this Supplement, a Gene Patent is a patent claiming the synthesis, detection or quantification of any particular oligonucleotide sequence or group of sequences including the correlation of such with an organism, phenotype or condition.

1. WARRANTY AND INSTALLATION CLASSIFICATIONS

Products receive warranty services as defined in the Table below

WARRANTY CODE	WARRANTY PERIOD	SERVICE LOCATION	SERVICE LEVEL <i>Unless otherwise specified below, standard local service is included</i>	RESPONSE TIME <i>Unless otherwise specified below, standard local response time is included.</i>	INSTALLATION INCLUDED	UPGRADE ELIGIBILITY (NOTE 10)	APPLICABLE NOTE(S)
1B	60 Days	Agilent	Replacement		No	No	
1P	30 Days	Agilent	Replacement		No	No	
2H	90 Days	On Site		Next Day	Yes	No	1,9
2J	90 Days	On Site		3 Days	Yes	No	1,9
3C	90 Days	Agilent	Replacement		No	No	
3P	90 Days	Agilent	Replacement		No	No	
4A	1 Year	Agilent/Dealer	Standard Bench		No	No	2
4B	1 Year	Agilent/Dealer	Standard Bench		No	Yes	2
4E	1 Year	Agilent/Dealer	Standard Bench		No	Yes	2
4F	1 Year	Agilent/Dealer	Standard Bench		Yes	No	2
4J	1 Year	Agilent/Dealer	Exchange	Next Day	No	No	5
4P	1 Year	Agilent	Parts Only		No	No	8
5B	1 Year	On Site		Next Day	Yes	No	1
5C	1 Year	On Site		Next Day	No	No	1
5E	1 Year	Agilent/Dealer	Exchange		No	No	5
5F	1 Year	Agilent/Dealer	Exchange	Next Day	No	No	5
5H	1 Year	On Site		3 Days	Yes	Yes	1,9
5P	1 Year	Agilent	Replacement		No	No	3
5Q	1 Year	Agilent	Standard Bench		No	No	2
5T	1 Year	On Site		3 Days	No	Yes	1
5Y	1 Year	On Site	Cooperative	7 Days	Yes	Yes	1,7,9
6E	2 Years	Agilent/Dealer	Unit Exchange	Next Day	No	No	5
6Z	1 Year	Agilent	Replacement		Yes	No	
7B	3 Years	Agilent/Dealer	Unit Exchange		No	No	5
7K	Year 1	On Site		Next Day	No	No	1,6



	Years 2-3	Agilent/Dealer	Standard Bench		No	No	2,6
7L	3 Years	Agilent/Dealer	Standard Bench		No	No	2
9Y	90 Days	Agilent	Replacement		No	No	
J3	0 Days	Agilent/Dealer	Dealer Warranty Only	None	No	No	4
X1	1 Year	Onsite	OEM Provided Only	Next Day	No	No	

NOTES:

- Responses are based on local standard business days and working hours. Unless otherwise stated, all responses are measured from the time the Customer calls until Agilent has either established a mutually acceptable time for support to be performed, or Agilent has begun to provide on-site support or remote diagnostics. See the response time table below for travel zone specific details.
- Standard Bench warranty means repaired by Agilent or an Agilent dealer at its designated repair center.
- Warranty service is limited to repair or replacement of defective Software media or materials only.
- Agilent does not support products manufactured by another company and distributed by Agilent. The original product manufacturer provides support. Software warranty services from Agilent are limited to replacement of defective Software media or materials. Customer should contact and/or register with the product manufacturer to receive any additional warranty and support coverage information that may be available. This code is used for Distributed Products.
- Exchange warranty may return to the Customer a repaired exchange unit in place of their original unit.
- This is a "Tiered Warranty" code, which means that two levels of warranty coverage are provided for specified intervals of time 7) Cooperative Support involves a sharing of responsibilities for replacement parts inventory and on-site product servicing.
- Parts only warranty means Agilent will supply the Customer with a replacement part in exchange for a defective one. Agilent may, at its option, waive the requirement for the Customer to return the defective part.
- Site preparation service included with installation.
- Upgrade eligibility indicates that the Product's warranty and installation coverage is eligible to change to match the warranty coverage of the Bundled System. A Bundled System is a configured group of Products, sold under a single product number.

2. RESPONSE TIMES

Response times for on-site repair services are specified in the Response Time Table below.

RESPONSE TIME TABLE

ZONE NUMBER	1-3	3-5	6	Other
Distance (Miles/Km)	0-100 / 0-160	101-200 / 161-320	201-300 / 321-480	
Warranty Codes: 2H, 5B, 5C, 7K, X1	Next Coverage Day	2 Coverage Days	3 Coverage Days	Quote
Warranty Codes: 2J, 5H, 5T	3 Coverage Days	3 Coverage Days	3 Coverage Days	Quote
Warranty Codes: 5Y	7 Coverage Days	7 Coverage Days	7 Coverage Days	Quote

3. INSTALLATION SERVICES

- SITE PREPARATION



When this service is included in the purchase price of a Product, a representative of Agilent will contact the Customer upon receipt of Customer's purchase order to discuss site preparation requirements. This may be accomplished either during an on-site visit or by telephone, and will encompass technical site planning, preparation and installation requirements relevant to Customer's system.

Customer will also receive documentation or information characterizing the physical, electrical and environmental requirements applicable to Customer's system, as well as any other requirements obtained in the appropriate Agilent "Site Preparation Manual" (when available) for the system.

b) SITE SURVEY

All installation sites must be approved by Agilent. Prior to the scheduled delivery of Customer's system, an Agilent representative will verify that the site has been prepared in conformance with the applicable "Site Preparation Manual" (when available) and meets all electrical and environmental requirements contained in that manual. This verification may occur either on-site or by telephone.

c) PURCHASE OF INSTALLATION SERVICES

Standard installation services are included in the price of some system Products. These services may also be obtained from Agilent for Products or systems which do not include these services in the purchase price of the Product for additional cost which will be specially quoted.

d) INSTALLATION OF SYSTEMS AND SELECTED COMPONENTS

When installation is included in the purchase price of a Product:

- 1) Agilent will install Customer's system(s) at a mutually agreed time following notification by Customer that all Products of the coordinated shipment have been delivered to the site and that the site conforms to Agilent's requirements. Installations will be performed during Agilent's normal business hours. Installations performed outside of business hours at Customer's request may be subject to additional charges.
- 2) Agilent systems, including all accessories, interfaces, peripherals and terminals ordered with a system on a coordinated delivery and included in Agilent's configuration guide and located at the system site, will be installed by Agilent at no additional charge. e)

SOFTWARE INSTALLATION

Standard Software installation services consist of loading the operating system and utilities included in the operating system Software on the system and executing applicable verification tests. Software that is Customer installable will be noted in the applicable data sheet.

f) INSTALLATION RESPONSIBILITIES

During system installation, Agilent will perform the following tasks:

1. supervise uncrating, positioning and racking of the Products;
2. inventory the shipment against the packing list (s);
3. physically interconnect the Products;
4. check the primary power line voltage;
5. connect line power to Products shipped with power cable and connector; (i)
6. install operating system and utilities;
7. execute turn-on procedures;
8. perform electronic and mechanical adjustments;
9. perform any repairs which may be required to make the Products operational; (ii)
10. execute standard Agilent diagnostic or verification programs and tests;
11. instruct operator on daily care and proper use of Products.

During system installation, Customer will perform the following tasks:

1. receive, uncrate, rack or move the Products and dispose of the packaging materials;
2. rerack or relocate the Products;
3. reconfigure or regenerate Software systems;
4. connect line power to Products delivered without power cable and connector; (i)
5. may install products not supplied by Agilent;
6. fabricate or pull cables;
7. ensure that site, cable runs and power outlets conform to all local fire and electrical codes;
8. attach wall and ceiling mounts to building structure;
9. reconfigure hardware systems, including recabling or relocation of existing products.



All of the above Customer tasks, except 4, and 8, may be performed by Agilent for an additional charge and are subject to availability of resources.

NOTES:

- i) Due to variations in local electrical codes, many Products are shipped without power cables and connectors. These Products must be connected to power by Customer's electrical contractor who is familiar with local regulations.
- ii) Repairs made on Products covered by Agilent warranty will be accomplished at no additional charge. Shipment damage related to a Customer initiated relocation or shipment is not covered under warranty. For Products or damage not covered by Agilent warranty, repairs will be made at Customer's expense.